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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,785	02/28/2002	John A. Scott	112056-0048	8989
24267 7590 03/11/2008 CESARI AND MCKENNA, LLP 88 BLACK FALCON AVENUE BOSTON, MA 02210				
EXAMINER				
CORRIELUS, JEAN M				
ART UNIT		PAPER NUMBER		
2162				
MAIL DATE		DELIVERY MODE		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/086,785

Applicant(s)

SCOTT, JOHN A.

Examiner

Jean M. Corielus

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 20-32, 37, 38 and 48-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 20-32, 37, 38 and 48-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the amendment filed on January 24, 2008, in which claims 1, 20, 22-23, 26-32 and 37 are amended.

Response to Arguments

2. Applicant's arguments filed January 24, 2008 have been fully considered but they are not persuasive. (See examiner remark).

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Applicant fails to provide antecedent basis for the claim terminology "computer readable media".

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 32 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 32 recites "computer readable media". Claim 32 is directed to an appropriate manufacture within the meaning of 101. It would appear to only be reasonable to interpret media for "carrying" as fairly conveying signals and other forms of propagation or transmission media to one ordinary skill in the art. Given the fact the specification fails to provide antecedent basis for the claim terminology "computer readable media", so the context

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the “media” was used in the claim would fairly suggest to one of ordinary skill signals or other forms of propagation and transmission media, typewritten or handwritten text on paper, or other items failing to be an appropriate manufacture under 35 USC 101 in the context of computer related inventions.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1, 20-32, 37-38, 48-58 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 20, 28, 29, 32, 37 and 51 recite the word “it”.

Applicant should duly note that it is a pronoun, but only what is referred by it should set forth in the claims.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 22 and 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fischer et al., (hereinafter “Fisher”) US patent no. 6,865,614.

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As to claims 22 and 26, Fischer discloses the claimed "determining if the data structure is a critical path data structure includes commonly utilized data structures" (determining if the data structure is larger than one byte in size, and a bit reversal program segment for reversing the bits within the data structure and when the data structure contains at least one bit field, so the program code, which includes an unpacking program segment for converting the data structure from a packed to an unpacked storage format, see fig.6); "performing byte swapping operations using specific code functions in response to determining that the data structure is the critical path data structure" (performing the byte swapping is only necessary when a data structure is larger than one byte in size, see fig.5 and col.2, lines 36-38); and "convert data structure in an output buffer to make it available for further processing" (converting packed data structures contained within data collections such as ACPI tables to unpacked format, wherein the byte swapping module reorders the bytes of ACPI tables to convert them from little-endian format to big-endian format, see fig.5).

As to claim 27, Direct Access File System (DAFS) protocol is well known in the art to transfer computer data from a packed to an unpacked data structure and also has the ability of a computer to find and go straight to a particular storage location in memory.

Remark

10. Applicant respectfully submits that Fischer is completely silent with respect to Applicant's claimed determining if the file access data structure is a critical path data structure, where the critical path data structure includes commonly utilized data structures; in response to determining that the file access data structure is the critical path data structure, performing byte swap operations using specific code functions and placing a converted data structure in an output buffer to make it available for further processing; *in response to determining that the file access data structure is not the critical path data structure, calling a byte-swapping engine.* The limitation that the Applicant is relied upon is mentioned in neither claim 22, nor in claim 26. Claim 22 was originally depends on claim 20. The examiner has indicated that claim 22 is allowable in conjunction with other limitations of claim 20. The applicant can not amend claim 22 by cancelling the limitations of claim 20. Claim 22 by itself is not allowable. It is, therefore, rejected in paragraph 9 above.

Allowable Subject Matter

11. Claims 1, 20-21, 23-25, 28, 29-32, 37-38 and 48-58 are allowable in light of the Applicant's arguments and the prior art made of record.

Reasons for Indicating Allowable Subject Matter

12. The following is an examiner's statement of reasons for allowance: Upon searching a variety of databases, the examiner respectfully submits that "determining if the data structure is a critical path data structure, where the critical path data structure includes commonly utilized data structures; in response to determining that if the file access data structure is the critical path data

structure, performing byte swap operations using specific code functions and placing a converted data structure in an output buffer to make the data structure available for further processing, and in response to determining that the file access data structure is not the critical path data structure, calling a byte-swapping engine identifying, from a descriptor look up table, a series of actions to perform on elements of the file access data structure.” in conjunction with all other limitations of the dependent and independent claims are not taught nor suggested by the prior art of record (PTO-892 and 1449). Therefore, claims 1, 20-21, 23-25, 28, 29-32, 37-38 and 48-58 are hereby allowed.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean M. Corrielus whose telephone number is (571) 272-4032. The examiner can normally be reached on 10 hours shift.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean M Corrielus/
Primary Examiner,
Art Unit 2162

March 11, 2008